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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
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10/572,867

03/21/2006

John F. Rabolt

UOD-215US

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01/27/2011

RATNERPRESTIA

P.O. BOX 1596

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EXAMINER

TENTONI, LEO B

ART UNIT

PAPER NUMBER

1742

MAIL DATE

DELIVERY MODE

01/27/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/572,867 | RABOLT ET AL. | |
| | Examiner | Art Unit | |
| | Leo B. Tentoni | 1742 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 6-21 is/are pending in the application.
- 4a) Of the above claim(s) 15-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 6-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12082010</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 21 September 2010 has been entered.

Election/Restrictions

2. Claims 15-21 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 30 October 2009.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the

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art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1, 6-10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foulkes (U.S. Patent Application Publication 2006/0036318 A1) in combination with Senecal et al (U.S. Patent Application Publication 2001/0045547 A1).

Foulkes (see the entire document, in particular, paragraphs [0028] and [0040]) teaches a process of making a dyed fiber including the steps of mixing a dye capable of reversibly changing color and a polymer (e.g., collagen, polymethyl methacrylate (PMMA), polytetrafluoroethylene (PTFE) at a

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temperature below the temperature at which the dye or polymer degrades to form a material composition and electrospinning the material composition to form a dyed fiber wherein the dye penetrates more than the surface of the dyed fiber and is distributed uniformly throughout the dyed fiber, wherein the dye includes a photochromic compound and wherein the dyed fiber is capable of exhibiting a reversible color change when exposed to light. Foulkes does not explicitly teach the formation of a solution for electrospinning (i.e., Foulkes teaches electrospinning, but does not explicitly teach the use of a solvent). Senecal et al (see the entire document, in particular, paragraphs [0010], [0015] and [0020] - [0023]) teaches a process of making a dyed fiber by electrospinning including the formation of an electrospinning solution (of a dye capable of reversibly changing color, a polymer and a solvent), and it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a solution for electrospinning in the process of Foulkes in view of Senecal et al in order to manufacture a dyed fiber.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Foulkes (U.S. Patent Application Publication 2006/0036318 A1) in combination with Senecal et al (U.S. Patent Application Publication 2001/0045547 A1) as applied to claims 1,

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6-10 and 12-14 above, and further in view of Balkus, Jr. et al (U.S. Patent Application Publication 2003/0168756 A1).

Foulkes and Senecal et al do not explicitly teach the use of chloroform as a solvent (Foulkes teaches the use of polymethyl methacrylate (PMMA) polymer and Senecal et al teaches the use of solvents). Balkus, Jr. et al (see the entire document, in particular, paragraphs [0060], [0064], [0067] and [0100]) teaches a process of making a dyed fiber by electrospinning including the use of polyhydroxyalkyl methacrylates (e.g., PMMA) polymers and chloroform as a solvent, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to use chloroform as a solvent in the process of Foulkes (in combination with Senecal et al) in order to manufacture a dyed fiber from PMMA polymer.

Response to Arguments

7. Applicant's arguments with respect to claims 1 and 6-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo B. Tentoni whose telephone number is (571) 272-1209. The examiner

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can normally be reached on Monday - Friday (6:30 A.M. - 3:00 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina A. Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Leo B. Tentoni/
Primary Examiner, Art Unit 1742